

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

ROBERT COTNER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. CIV-08-284-FHS
	)	
RON ANDERSON, et. al.,	)	
	)	
Defendants.	)	

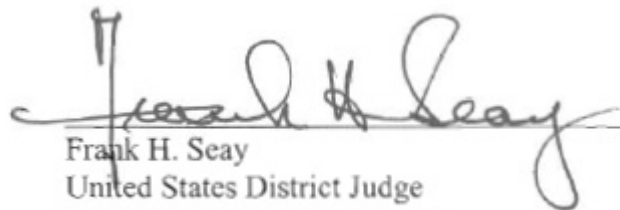
**ORDER**

On July 28, 2008, plaintiff filed this action. On this same date he also filed a Motion to Proceed In Forma Pauperis. On July 30, 2008, this court entered an order denying the Motion to Proceed In forma Pauperis and directed the plaintiff to send the required filing fee within 20 days or his action would be dismissed. Plaintiff filed several pleadings indicating the defendants had removed money from his account and as a result he did not have the money to pay the required filing fee. Plaintiff also asked for other forms of relief.

Before imposing dismissal as a sanction, a district court should evaluate the following factors on the record: "(1) the degree of actual prejudice to the other party; (2) the amount of interference with the judicial process; (3) the culpability of the litigant; (4) whether the court warned the party in advance that dismissal of the action would be a likely sanction for non-compliance; and (5) the efficacy of lesser sanctions." Ehrenhaus v. Reynolds, 965 F.2d 916, 918 (10<sup>th</sup> Cir. 1992). Evaluating these five factors and the facts of this case, this court finds dismissal is appropriate. While at this early stage of the

proceeding, there may be no prejudice to the other party by plaintiff failing to pay the required filing fees, there is most certainly an interference with the judicial process. While there is no evidence the plaintiff had any culpability, the court did warn the plaintiff in advance what would happen if he did not pay the filing fees. Lesser sanctions would not assist in this matter. Plaintiff has failed to follow a simple order of this court by paying the required filing fees within the time allotted by this court. According, this court is dismissing this action for plaintiff's failure to follow a court order.

**IT IS SO ORDERED** this 2<sup>nd</sup> day of October, 2008.



Frank H. Seay  
United States District Judge  
Eastern District of Oklahoma